

## **Senate Joint Resolution No. 30**

### **RESOLUTION CHAPTER 79**

Senate Joint Resolution No. 30—Relative to alcoholic beverages.

[Filed with Secretary of State June 30, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SJR 30, Chesbro. Alcoholic beverages: interstate shipment of wine.

This measure would request the Governor and Legislature of each state to enact legislation that permits out-of-state wineries to ship wines directly to consumers in their state on equal terms as in-state wineries, and that provides for the collection of applicable state taxes from these out-of-state wineries.

This measure would also memorialize the Governor and Legislature of each state to enact legislation that promotes commerce by maximizing statutory and regulatory uniformity for direct-to-consumer wine sales between the states and minimizing the expense and complexity of shipping wine from wineries directly to consumers.

WHEREAS, Wine is California's number one finished agricultural product, and grapes rank among the state's top agricultural products, and 90 percent of all American wines are made in California; and

WHEREAS, California wineries shipped an estimated total of 260,000,000 cases of wine in 2004; and

WHEREAS, The California wine industry contributes more than \$45 billion to the state's economy, and employs more than 200,000 people; and

WHEREAS, The wine industry creates additional jobs in other industries which support wine production, including businesses that service and supply the industry, those which distribute the product at the wholesale and retail levels, and tourism in California's wine producing regions; and

WHEREAS, There are over 1,367 wineries and more than 4,805 grape growers in California; and

WHEREAS, The growth of the wine industry and its ability to compete globally depends on a business climate that fosters success; and

WHEREAS, The innovation and spirit of small producers drives the entire industry to improve and progress; and

WHEREAS, California receives \$1.9 billion in taxes and other business licenses and fees, and the federal government, other states, and local municipalities collect an additional \$3.7 billion in tax revenue per year from the California wine industry; and

WHEREAS, There are nearly 4,000 wineries in the United States; and

WHEREAS, There are wineries in all 50 states; and

WHEREAS, At the end of the Prohibition era, the Twenty-first Amendment to the United States Constitution was enacted, which permits each state to regulate the sale and distribution of alcoholic beverage products within its borders; and

WHEREAS, The purpose of the Twenty-first Amendment was to allow each state to enact laws that were responsive to local sensibilities, but preserved interstate commerce; and

WHEREAS, The May 16, 2005, United States Supreme Court decision *Granholm v. Heald* resolved the question, “Does a State’s regulatory scheme that permits in-state wineries directly to ship alcohol to consumers but restricts the ability of out-of-state wineries to do so violate the dormant Commerce Clause in light of § 2 of the Twenty-first Amendment?”; and

WHEREAS, The United States Supreme Court held in *Granholm v. Heald* that “the States have broad power to regulate liquor under § 2 of the Twenty-first Amendment. This power, however, does not allow States to ban, or severely limit, the direct shipment of out-of-state wine while simultaneously authorizing direct shipment by in-state producers. If a State chooses to allow direct shipment of wine, it must do so on evenhanded terms. Without demonstrating the need for discrimination, New York and Michigan have enacted regulations that disadvantage out-of-state wine producers. Under our Commerce Clause jurisprudence, these regulations cannot stand.”; and

WHEREAS, In order to reach consumers in other states, many small- and medium-sized California wineries have turned to direct marketing and shipping of their wines to consumers in other states; and

WHEREAS, These wineries have offered voluntarily to have their direct marketing and shipping regulated by other states to ensure that those states collect the same taxes that wines sold through the three-tier system must pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in “dry” areas, as defined under the laws of each state; and

WHEREAS, California expeditiously enacted a law to open direct shipping of wine to consumers without limitation through a simple permit system to comply with the requirements of *Granholm v. Heald*; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully requests the Governor and Legislature of each of the other 49 states to swiftly enact legislation that permits wineries in their state, and wineries in the other 49 states to ship wines to consumers in their state on equal terms without discrimination by size or other criteria, and that provides for the uncomplicated collection of applicable state taxes and reporting from all wineries that ship products directly into the state to their customers; and be it further

*Resolved*, That the Legislature respectfully requests the Governor and Legislature of each of the other 49 states to enact legislation that promotes commerce by maximizing statutory and regulatory uniformity and

simplicity for direct-to-consumer wine sales between the states and minimizing the expense and complexity of shipping wine from wineries directly to consumers; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the Governor and presiding officers of each house of the Legislature of each state.

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